

APPROVED: Meeting No. 38-80

ATTEST: *Helen M. Heneghan*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 36-80

September 29, 1980

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, September 29, 1980, at 8:00 p.m.

PRESENT

Mayor William E. Hanna, Jr.

Councilman Steve Abrams

Councilwoman Phyllis Fordham

Councilman John Freeland

Councilman John Tyner

The Mayor in the Chair.

In attendance: City Clerk Helen M. Heneghan City Attorney Roger Titus; Director of Finance John Lawton; Assistant City Manager Daniel Hobbs; Public Information Officer Sue M. Patterson; Director of Planning James M. Davis; Director of Public Works Robert Goodin.

Re: City Manager's Report

Mr. Hobbs reported the following:

1. On Saturday night, there was an awards banquet for the Rockville Open Golf Championships. One hundred and twelve golfers participated in the tournament. The winner was John Llewellyn (city champion) and Preston Martin ("Open champion")
2. Yesterday, the Recreation and Parks Department held the Second Annual Indian Summer Harvest Festival. About 400 people attended; it was a very successful event.
3. One of the graduate student interns in the City Manager's office will be leaving us this week. Sandy Kaufman, who has been with us for one year while completing her M.P.A. at American University, will start October 14 with the U.S. HUD Regional Office in Philadelphia.
4. The numbers are in from the City's first month's newspaper collection, under the newly established recycling program. In September, 147 tons of newspaper were collected as compared to September 1979, 63 tons of newspaper collected. Staff is pleased with the response and look for even better figures in the coming months.
5. Last Thursday, at the request of Delegate Forehand, Mr. Hobbs appeared before the Montgomery County Delegation to discuss the concept of making a violation

of the sign ordinance a municipal infraction. Copies of the municipal infraction tickets and pictures of typical violations on Rockville Pike were handed out. There was a good deal of interest in the concept from the delegation. There may be a problem introducing it as a local bill, but it served the purpose of briefing them on this for the upcoming General Assembly session.

6. Mr. Titus announced that the Legal Department expanded last week when secretary Anita McCombs gave birth to a baby girl, 7lbs. 8oz.

Re: Proclamation - "Drama Week"
September 29 - October 4, 1980

Proclamation No. 7-80

There being no objection from the Council, Mayor Hanna proceeded to issue Proclamation No. 7-80, the full text of which can be found in Proclamation File No. 2 of the Mayor and Council, proclaiming the week of September 29 to October 4, 1980, as "Drama Week" in Rockville. Councilman Tyner read the proclamation at the request of the Mayor in which it was urged that citizens participate in and support the efforts of all organizations in the City which contribute through the medium of the stage.

Re: Award of Contract - Bid No. 5-81
Traffic Signal Maintenance.

Bids were opened on Tuesday, August 12, 1980, in the Purchasing Agent's office for Bid No. 5-81, Annual Traffic Signal Maintenance at various locations in and for the City of Rockville. This contract covers routine maintenance, necessary materials, and emergency repairs for the City's eleven traffic signals.

Two bids were received:

Sylvania Lighting Service, Springfield, VA	\$7,605.20
Hawkins Electric Co., College Park, MD	\$8,833.00

The low bid contract awarded last year to Hawkins Electric was \$5,679.50. The increase over last year can be attributed to rising labor and overhead costs for highly specialized signal technician work.

On August 20, the Traffic Engineer and Deputy Director of Public Works met with representatives of Sylvania and found that Sylvania would not be able to maintain the City's electronic (solid-state) signal controllers. Three of the existing 11 controllers are of solid state design, and two more solid state controllers will likely be added at new signal locations this year. As a result, Sylvania has requested that its bid be withdrawn.

In the bidding document, solid state equipment was not specifically mentioned because it is commonly used. The City Attorney advises that even though bidders should have expected to maintain solid state equipment the bid document did not state that fact. Sylvania should therefore not be held to its bid.

Hawkins Electric has been maintenance contractor for the last several years and should continue to meet specifications as in the past. Staff therefore recommends an award to Hawkins Electric Company in the amount of \$8,833.00, that Sylvania be allowed to withdraw its bid, and that the bid bond be refunded to Sylvania.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, Bid No. 5-81, Traffic Signal Maintenance, was awarded to Hawkins Electric in the amount of \$8,833 and Sylvania, after withdrawing its bid, would have its bond refunded.

Re: Award of Contract: Bid No. 15-81
Three refuse packers

Bids were received and opened on September 9, 1980, for providing the City with three 20 c.y. refuse packers on diesel powered chassis (Bid No. 15-81)

The results are as follows:

1. Potomac Ford Truck Sales Inc., Landover Maryland

<u>HEIL IV</u>	<u>LOADMASTER</u>	<u>LEACH</u>	<u>E.Z. PACK</u>	<u>PAK MOR</u>	<u>DEMPSTER</u>
N.B.	40,871.37	42,416.37	40,119.11	N.B.	44,716.37

2. Chesapeake Ford Truck Sales, Baltimore, Maryland

<u>HEIL IV</u>	<u>LOADMASTER</u>	<u>LEACH</u>	<u>PAK MOR</u>
42,390	40,737	41,882	40,493

3. Eastern International Trucks, Inc., Rockville, Maryland

<u>HEIL IV</u>	<u>LOADMASTER</u>	<u>LEACH</u>	<u>E.Z. PACK</u>
41,717	40,738	42,283	40,450

4. Keystone Ford Truck Sales, Inc., Harrisburg, Pennsylvania

<u>HEIL IV</u>	<u>LOADMASTER</u>	<u>LEACH</u>
44,332.49	42,148.49	43,330.49

5. Watkins Trucks Inc., New Castle, Delaware

<u>HEIL IV</u>	<u>LOADMASTER</u>	<u>LEACH</u>
52,715	50,345	51,527

6. Hico Equipment Inc., Bel Air, Maryland

<u>HEIL IV</u>	<u>LOADMASTER</u>	<u>LEACH</u>	<u>PAK MOR</u>
N.B.	N.B.	N.B.	41,825

Considering the favorable bids (and good reports on experience with the low bid (E.Z. Pack vehicle) staff recommends that an award be made to Potomac Ford Truck Sales, Inc., Landover, Maryland, in the amount of \$120,357.33 for the purchase of three Ford E.Z. Pack units at the low bid unit price of \$40,119.11.

On motion of Councilman Abrams, duly seconded and unanimously passed, Bid No. 15-81, for three refuse packers, was awarded to Potomac Ford Truck Sales in the amount of \$120,357.33.

Re: Award of Contract: Bid No. 17-81,
Storm water drainage facilities -
Calvert Road

Bids were opened in City Hall, Room 221 at 3:00 p.m. on Monday, September 15, 1980, for the installation of approximately 1300 l.f. of storm drainage piping and inlets in the Roxboro area of the City. Seven bids were received as follows:

Zenoble Const. Inc., Laurel, Maryland	\$104,312.46
Pilot Construction, Inc., Burtonsville, MD	141,195.00
Concrete General, Rockville, Maryland	146,325.00
Nazario Construction, Co., Beltsville, MD	148,024.00
Rapp Contracting Co., Beltsville, MD	163,287.00
C.F. & B. Inc. & State Const., Hyattsville, MD	201,342.00
F.E. Gregory & Sons, Inc., Gaithersburg, MD	242,510.00
Engineer's Estimate	\$121,000.00
CDBG Appropriation	122,500.00

This drainage system, which combines two separate projects, was authorized under the Community Development Block Grant Program with a total appropriation of \$122,500.

Staff recommends award to the low bidder, Zenoble Construction, Inc., in the amount of their bid of \$104,312.46.

On motion of Councilman Tyner, duly seconded and unanimously passed, Bid No. 17-81, was awarded to the Zenoble Construction Company in the amount of 104,312.46.

Re: Waiver of bidding requirements to
purchase used refuse truck body

The current budget provides \$10,000 for purchase of a used refuse body to permit the City to expand its collection of newsprint (for recycling) as a part of the overall refuse rate avoidance program. Staff recently found a body

available for approximately \$8,000 but due to the lapse of time in getting other quotations it was sold.

Most of the dealers in used refuse bodies would not wait through the period of time required to submit a bid and have a bid opening and consideration before the Mayor and Council. Refuse bodies simply move too quickly in the market for that kind of time.

The City Charter /Section 13.a.(4)/ allows the Mayor and Council to waive the bid requirement in purchases over \$7,500 in cases in which the City Manager determines it is impractical to obtain competitive bids. The Mayor and Council must approve such a waiver in public session.

Staff recommends that the Mayor and Council authorize staff to purchase a used refuse body (including installation) for the best price that can be obtained, as long as the purchase does not exceed the \$10,000 budget for the item.

On motion of Councilman Freeland, duly seconded and unanimously passed, staff was authorized to purchase a used refuse body for the best price obtainable as long as it does not exceed \$10,000.

Re: Waiver of on-site storm water management requirements: (a) New Mark Commons, Lots 1-13; (b) American Trading Building-National Capital Research Park; (c) Falls Bend Subdivision

(a) New Mark Commons, Lots 1-13

This site is adjacent to the Community Recreation area and opposite from Radburn Court, in the Cabin John drainage area and has access to adequate storm drain systems to accommodate the increased run-off from a ten year storm. These systems drain to and are in good proximity to three public storm water detention facilities.

On-site SWM could be provided by clearing some 10,000 sq. ft. of heavily wooded area and construction open detention ponds. However, the larger of these would abut existing townhouses and the other would be at the southern most portion of this site in view of New Mark Esplanade. Generally, such sites create maintenance problems and are often neglected.

In as much as the existing storm drain system can handle the increased run-off and since there are planned compensating public facilities, the committee recommends that this on-site SWM requirement be waived and the developer be permitted to make a contribution toward the public off-site program.

The contribution would be \$18,600 (3.1 gross acres @ \$6,000). Acceptance would be subject to approval by the City and a conformable waiver by the Montgomery Soil Conservation District.

(b) American Trading Building-National Capital Research Park

This site is located in Watts Branch drainage area between Research Boulevard and I-270 just south of proposed Gude Drive and is being developed in two phases. The first phase covering 7.0 acres provided 100 percent of SWM requirements on-site and was begun last year. Phase II includes a second building with related parking which would fill in the larger of two ponds constructed under Phase I, thus renewing their SWM obligations.

The developer's engineer has submitted a SWM waiver request for 75.8 percent of the required volume. The balance or 24.2 percent is currently provided for in a small dry pond at the top of the site which drains from about 6.0 acres.

The committee's recommendation is to grant a waiver and accept a contribution of \$49,979 (0.758 x 12.68 gross acres @ \$5,200) toward the off-site SWM program. Such a contribution would be subject to approval by the City and a conformable waiver by the Montgomery Soil Conservation District.

(c) Falls Bend Subdivision

This parcel of approximately 20 acres lies between Fallsmead Subdivision and Ritchie Parkway adjacent to Great Falls Road and is in the Watts Branch drainage area. Fifty-five single family houses and a small park are planned in this development.

There are two ridges running thru this parcel. The run-off can be accommodated by three existing enclosed storm drain systems that flow to a stream in which there is a planned compensating SWM facility (Rockmead Park - just above the Fallsmead Recreation Area).

In addition there are nine programmed off-site SWM facilities up stream from the subject site - CIP projects E-3, E-4, E-5, E-6, E-7, E-8, E-9, E-22 and E-23. Design for three of these is presently under contract.

On-site SWM could be provided by pre-empting one lot on the west, two or more lots toward the north and one lot on the southeast. However, these would all back up to existing houses, could be nuisances and would add to the number of small, hard to maintain, public facilities in the City.

Since there are at present storm drain systems that can accommodate the run-off and since there are planned public facilities to compensate for additional run-off the committee recommends that the on-site requirement be waived and the City accept a contribution of \$37,206 (20.67 gross acres @ 1800) toward our off-site program. Such a contribution would be subject to approval by the City and a conformable waiver by the Montgomery Soil Conservation District.

Councilman Tyner asked if he might be given an update from Mr. Hobbs on the amount of funding now held and what off-site facilities are planned for construction. Mr. Goodin said that will be provided.

Councilman Abrams moved, duly seconded and unanimously passed, that the three waivers of on-site be approved and the contributions accepted; all subject to the approval of the Montgomery Soil Conservation District.

Re: Introduction of Ordinance: To amend Section 12-1.07 of Chapter 12 of the "Laws of Rockville", entitled "Public Nuisances, Morals, and Conduct", to eliminate the exception for target, trap, skeet range or shooting areas from the prohibition against the discharge of firearms and other weapons within the corporate limits of the City of Rockville.

Councilman Tyner suggested amending the language of the ordinance prior to introduction. Mayor Hanna suggested it might not be the proper time to amend the ordinance. Councilman Freeland asked that a public hearing be held. He said it is disturbing that most people don't know exactly what is going on. He would like to see the ordinance introduced in order to start the wheels moving and get information on to the public. Mayor Hanna agreed and explained the procedure of introduction and advertising for a public hearing. The next available date would be November 10, 1980.

On motion of Councilman Tyner, there was introduced upon the table, an ordinance amending Section 12-1.07 of Chapter 12 of the "Laws of Rockville", entitled "Public Nuisances, Morals, and Conduct", to eliminate the exception for target, trap, skeet range or shooting areas from the prohibition against the discharge of firearms and other weapons within the corporate limits of the City of Rockville.

Re: Adoption of Ordinance: To grant text amendment application, T-37-80, to make various changes to the subdivision regulations in the Zoning Ordinance

Ordinance No. 28-80

On motion of Councilman Freeland, duly seconded and unanimously passed, Mayor and Council all voting aye, Ordinance No. 28-80, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council, amending the subdivision regulations in the Zoning and Planning Ordinance, was approved by the Mayor and Council.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. David Betts, 22 West Jefferson Street. Mr. Betts told the Mayor and Council that the Courthouse branch of the Rockville Post Office is unsightly. He has inquired as to the responsibility of cleaning it and was told the General Service Administration. He asked the Mayor and Council to assist him in his quest to the GSA to get the place cleaned since it does disgrace the City's image. Mayor Hanna asked the City Manager to prepare a letter for his signature requesting cleanup.
2. David Freishtat. Mr. Freishtat said he is here tonight speaking to Item No. 13 on the agenda and asked that the Mayor and Council act favorably and then Mr. Davis and the Planning Commission follow up on the study of the Adams Street area to change it as requested.
3. Richard Ewing, 1421 Fallsmead Way. Mr. Ewing said he is speaking to Item No. 11 on the agenda. The Pipestem Pl. turnaround will be built on his property. He explained and clarified some inaccuracies in the staff's August 22 memo and requested the Mayor and Council not approve the construction of the turnaround.
4. Robert Morris, 1074 Pipestem Place. Mr. Morris asked the Mayor and Council to assist the neighbors in keeping the property in its natural state. Children play in that street and use it as a playground. If a turnaround is constructed, traffic will increase bringing danger to the children.

Councilman Freeland asked if the neighbors are concerned about plowing of the streets. Mr. Morris said snowplows have never plowed the street and refuse trucks do not have a problem. Mayor Hanna said the Mayor and Council's policy is to not leave stub end streets that cause problems for fire equipment.

5. Charles Rogers, 5527 Halpine Place. Mr. Rogers said he is addressing Item No. 8 on the agenda concerning shooting areas. At present, the law has provisions for the City Manager to regulate shooting ranges in the City to see that all is proper. It is not right for the Mayor and Council to say that a shooting range can never be constructed. Mayor Hanna noted that the Mayor and Council plan to hold a public hearing prior to any action being taken. He asked the gentlemen to please return and testify at that time.

6. Clarence E. Clark, 401 Grandin Avenue. Mr. Clark asked if the lights on Rt. 355 could be synchronized with the speed of the traffic. Mayor Hanna said he agrees with Mr. Clark and said the City has been trying to get the lights synchronized for a long time, if only the State Roads Commission would comply. Mr. Clark said there is a stop sign a block from his house at a 90° curve at the corner of Grandin Ave. and Reading Terrace. He asked the staff two months ago to look in to it and correct what is a bad situation. Mayor Hanna explained the process of referring such a question to the Traffic and Transportation Commission. It usually takes two months. He said Mr. Clark should be hearing from the City very soon.

7. Marshall Rosen, 601 Hungerford Drive, owner of Shooters World. Mr. Rosen said there now exists two shooting ranges in the City of Rockville. People would not carry guns outdoors to use the new facilities. Neither is there any outdoor ventilation for lead dust. The area is both soundproof and bulletproof. The City could benefit by having activity in the Town Center. It could also be a training facility for police and a place of recreation for families. It will be constructed in a retail center where people come to enjoy themselves. State matches for 600 or 700 people could also be held there.

8. David Jacobson, 1076 Pipestem Place. Mr. Jacobson said there are approximately forty children living on Pipestem Place and never before have the 17 residents agreed on anything. They are all concerned about the turn around, traffic speed, and danger to the children and are asking that it not be constructed.

9. Mark Saddleson, Bauer Drive. Mr. Saddleson said the indiscriminant prohibition against shooting areas which the Mayor and Council is considering serves no need. There would be local benefit to the shooting gallery which would bring commerce to the Washington Street area. It would be more appropriate to see a thriving business rather than an empty store front.

10. Rick Smith, 608 North Stonestreet Avenue. Mr. Smith said he is a student at Montgomery College where he would like to see a shooting club located. It is impossible to locate such since there is no place for them to practice. He asked that his name be placed in favor of the shooting gallery.

11. Marvin Kass, 1080 Pipestem Place. Mr. Kass said he had hoped that no turnaround on Pipestem Place would not hamper snow removal. Since trucks with blades can get through and police can turn around in driveways, there has never been a problem with emergency vehicles. He does not like to see the bureaucratic idea of "this is the policy and we'll do it regardless of it being needed."

12. Arthur Cook, 4100 Mt. Piliar Road. Mr. Cook said he operates a shooting range in downtown Waukegan and has since 1961, and there has never been a problem having it in a busy city. He suggested that the Mayor and Council look into the Montgomery County report published December 13, 1968 in which a conclusion was reached that citizens have the right to enjoy firearms and as such should be able to practice. He read excerpts from the Firearms' study to the Council.

13. Michael Lashbrook, National Rifle Association, Director of State and Local Affairs. Mr. Lashbrook said this evening he would like to put the Association on record in opposition to a complete ban, and the Association will be planning to testify at the public hearing. At the same time the NRA offers its help to the City Manager for plans' review in order to construct safe recreation facilities.

14. Marshall Hyde, 208 Congressional Lane. Mr. Hyde said he earned his varsity and junior varsity letters in rifle. What the Mayor and Council is considering banning is not an amusement park, but a legitimate sport.

15. A citizen from 606 Blossom Drive said he favored the allowance of target ranges and such in the City of Rockville. He himself is a member of the Issac Walton League and enjoys the sport.

There being no other citizens wishing to be heard, the Mayor closed the Citizen's Forum portion of the meeting.

Re: Award of Contract: Bid No. 14-81,
Construction of City Hall addition.

Bids were opened in the Conference Room, City Hall, at 3:00 p.m., September 24, 1980, for construction of an addition to City Hall.

The bids were as follows:

Robert J. Henley Construction Co., Rockville, Maryland	\$2,514,497.00
Kimel and Kimel, Inc., Gaithersburg, Maryland	2,543,000.00
Magers Construction Co., Silver Spring, Maryland	2,555,555.00
Kora and Williams Corp., Rockville, Maryland	2,637,000.00
Davis Corporation, La Plata, Maryland	2,654,000.00
Beiro Construction Co., Alexandria, Virginia	2,724,000.00
E. H. Glover, Inc., Baileys Crossroads, Virginia	2,736,000.00
Thomas Industries Corp., Rockville, Maryland	2,969,000.00

The budgeted amount for the total City Hall Addition project was \$3,078,300.00. The architect's estimate was \$2,500,000 to \$2,700,000.

The staff recommends an award to Robert J. Henley Construction Company, for \$2,514,497.00.

Councilman Abrams moved, duly seconded, to award the contract to the Robert J. Henley Construction Company in the amount of \$2,514,497. The motion passed, Mayor Hanna, Councilmembers Abrams and Freeland voting aye and Councilmembers Fordham and Tyner voting nay.

Councilman Tyner asked that the staff submit a list of items to the Council that are still to be decided. Mr. Hobbs said any other items would be separate from this bid and Council would be treating them as such.

Re: Decision: Construction of
turnaround area at the end of
Pipestem place

This matter concerns the temporary construction of a vehicle turnaround at the end of a 600 foot long street, Pipestem Place. Kettler Brothers, who developed the Fallsmead Subdivision has a performance bond for \$80,500 to insure the completion of subdivision work. The only outstanding element is the construction of a turnaround. On July 30, a letter was received by the Council signed by 17 homeowners on the street asking the turnaround not be built citing the problems they could foresee, youth gathering and increased traffic, as the reasons for objecting to its construction. Staff has recommended the work proceed as planned to facilitate public safety vehicle use and access and to have a place to turnaround large City vehicles and to provide a convenient location for residents so they do not have to backup into private driveways. Councilman Tyner asked the disposition of funds if this is not built. Mr. Hobbs explained that a bond was posted and it would be released when the Mayor and Council decide what will be done. Mayor Hanna noted that he favors not building it since the 17 homeowners on the street say they do not want it built. Though the Mayor and Council policy is a good one, if the neighbors are satisfied, he will go along with it.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Mayor and Council rejected the staff's recommendation to construct Pipestem Place.

Re: Approval of Use of Art in Public
Places funds for a mural on the
south side of Metropolitan Savings
and Loan Building on North Washing-
ton Street

Sharon Buchanan, Chairman of the Cultural Arts Commission, presented a copy of the mural as proposed to be constructed on the south side of Metropolitan Savings and Loan Building on North Washington Street. Council expressed its pleasure at the excellence of the mural.

On motion of Councilman Abrams, duly seconded and unanimously passed, authorization was given for use of funds for a mural on the Savings and Loan Building on North Washington Street.

Re: Approval: Waiver of filing fees
for map amendment application on
N. Adams Street

This is in response to a letter addressed to the Mayor from Mr. David Freishtat, Esq., requesting a waiver of zoning filing fees to permit the filing of applications involving both street frontages in the 200 block of North Adams Street. The applicant is requesting that the Mayor and Council waive the "separate fee and application" for each lot and permit him to file two separate applications, one for each side of the street and pay the filing fee and sign fee for each property as one entity.

The Planning Commission has been advised of the request. The staff has recommended that the Mayor and Council and/or the Planning Commission consider the details of this proposal in the context of a possible Sectional Zoning Map Amendment instead of a series of piecemeal map amendments.

The Planning Commission concurs with the approach, but would recommend that the Mayor and Council refer the entire matter to the Commission prior to the Mayor and Council getting involved in the details.

The Planning Commission could then consider the matter in the context of the Town Center Plan, zoning patterns in the area, housing goals, and many other issues and objectives which would have a bearing on this project.

Councilman Tyner moved, duly seconded and unanimously passed, that the entire matter be referred to the Planning Commission as requested by the Planning Commission.

Re: Instructions to staff: Amendment to
Chapter 10 of the "Laws of Rockville"
Licensing of Rental Units

When the Property Maintenance and Municipal Infraction Ordinances were reviewed and adopted by the City, time was spent organizing the Health, Housing, and Property Maintenance Codes from three ordinances into one. At that time, staff did not review the ordinances concerning the licensing of rental units in the City. It has now come to staff's attention that there is no municipal infraction or fine to those property owners who fail to obtain the license necessary for their rental units within the City. For example, while property maintenance deficiencies are subject to municipal infraction fines, the failure to apply for and receive the rental license is still a criminal offense. Hence, staff has not prosecuted cases in this regard. To be able to include this violation with the other deficiencies would strengthen cases in court.

Staff agrees that Chapter 10, Regulation and Licensing of Inns, Apartment Houses, and other Rental Units, needs more than cursory attention, and suggests that the entire licensing provisions need review and revision in as much as some provisions may be outdated, unworkable, or conflict with the Property Maintenance Ordinance.

Because of the importance of this item, staff requests that the Mayor and Council instruct the City Attorney's office to prepare a new rental licensing ordinance which would coordinate the municipal infraction ordinance with the licensing ordinance.

On motion of Councilman Freeland, duly seconded and unanimously passed, the City Attorney's office was instructed to prepare a new rental licensing ordinance as noted above. Councilman Tyner asked the status of the occupancy permit ordinance. Mr. Radauskas said the draft had been prepared; the City Attorney will be examining it soon.

Re: Decision and Instructions to staff
re SCA-23-80, Locust Street,
E. Casey, Applicant

The Planning Commission recommended:

1. That the Locust Street right-of-way between Mr. Ehrlich's property and Mr. Casey's property not be abandoned.
2. That abandonment be permitted along the rear lot line of Lots 8 and 9 for the purpose of facilitating property assemblage.

3. That an easement be recorded among the land records for that portion of the existing right-of-way to be abandoned for purposes of underground utilities (water, sewerage, storm drainage, electric, telephone, etc.) and pedestrian and bicycle travel between Fleet Street and Jefferson Street.

4. If abandonment is granted for a portion of the right-of-way, then the owners of the property agree to develop a pedestrian and bicycle pathway to Town Center design standards across that portion abandoned at their expense. A bond to accomplish this requirement is to be posted with the City before abandonment is agreed to.

Councilman Tyner said he is having difficulty with passing the abandonment unless the easement is in perpetuity. Mr. Hobbs said that should be able to be accomplished.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, staff was authorized to draw up the necessary legal documentation to accomplish a partial abandonment according to the Planning Commission's recommendations.

Re: Decision: Method of operation
for County Government Ice Rink
in Town Center

The plaza area of the new County Government Center will contain an uncovered ice rink, which will be nearly as wide, but one-half as long as a full size hockey rink. The County has incorporated operation of the ice rink into the food service bid. Of the three bids received, Marriott is the low bidder. The County has indicated that they would like to see the City rather than a private contractor, operate the ice rink.

While the bid specifications do not speak to required operating hours, the staffing pattern contained in Marriott's bid indicates rather extensive service. Marriott also says that the firm has experience in operating ice skating facilities. While staff believes that it could and would do a good job of operating the rink, there is insufficient evidence to conclude that City staff would do a better job than would Marriott.

Because the vagaries of the weather greatly affect an outdoor rink, staff projections indicate that the City could achieve a profit of up to \$11,000 or lose as much as \$18,000 in any one year.

It is recommended that the City not operate the County Government Center ice rink, but instead work with the private operator to ensure as high a level of service to City residents as is possible.

On motion of Councilman Freeland, duly seconded and unanimously passed, the Mayor and Council agreed that the City will not operate the County Government Center's ice rink.

Re: Decision and instructions to staff
re SCA-24-80, Pasteur Court,
Montgomery County Board of Realtors
and Solar Building Association,
Applicants.

The Planning Commission recommends abandonment of the subject right-of-way subject to the following:

1. Recordation of an easement centered on the existing City water main for access and maintenance of the water main; and
2. Recordation of a thirty-five (35) foot wide public utility easement adjacent and parallel to Piccard Drive for access and maintenance of the PEPCO and C&P Telephone facilities.

On motion of Councilman Tyner, duly seconded and unanimously passed, the City Attorney was instructed to prepare the necessary legal documents to grant the abandonment with the conditions listed above.

Re: Decision and instructions to staff
re T-31-80, amending the zoning
ordinance to prohibit the retailing
of alcoholic beverages for off-
sale in the C-1 zone.

Under current Zoning and Planning Ordinance regulations, "retailing of alcoholic beverages for consumption on the premises of any restaurant or delicatessen," is listed as a permitted use in the C-2, O-1, TCO-1, TCO-2, TCM-1 and TCM-2 zones. Such use is also allowed by special exception in the C-1, I-1, I-3 and I-4 zones. In the three industrial zones the restaurant use also requires a special exception. Therefore, only in the C-1 zone does the City require a special exception solely for the right to sell alcoholic beverages in the establishments that are otherwise permitted uses by right.

The processing of special exceptions for on-sale in the C-1 zone has proven to be a burden for the staff, the Planning Commission and the Board of Appeals. These bodies are charged with making land-use recommendations and findings rather than judgements on the social issues typically raised relative to such accessory activity. The Planning Commission has previously requested the staff to prepare and file a text amendment which would make the sale of alcoholic beverages for consumption on the premises of any C-1 zoned restaurant or delicatessen a permitted use. The first part of the subject text amendment will satisfy this directive.

It should be noted that this amendment would not affect the normal requirements of the Montgomery County Board of License Commissioners relative to obtaining the necessary licenses for alcoholic beverages sales.

On motion of Councilman Tyner, duly seconded and passed, Councilman Abrams voting nay, the City Attorney was instructed to prepare the necessary legal documentation to grant subject text amendment T-31-80.

Re: Instructions to staff to eliminate the contradiction between State Board of Cosmetologists' regulations and the City Zoning and Planning ordinance.

There is an apparent contradiction between State Regulation and City Zoning and Planning Ordinance relative to the number of entrances required for the home occupation of beauty culture. This conflict prevents the Board of Appeals from considering on its merits a Special Exception application to permit beauty culture as a home occupation in the residential zones.

Under the definition section of the Zoning and Planning Ordinance, home occupation, with the exception of offices of medical practitioners, must not have a separate entrance from outside the building. Regulations of the Maryland State Board of Cosmetologists (09.22-01-.02) require a separate entrance and separate restrooms and lavatory facilities.

Section 4-103(a) of the Zoning and Planning Ordinance requires that the proposed use subject to a Special Exception must "not violate or adversely affect the Plan, Zoning Ordinance, or any other applicable law." Based on this and awareness of the State Regulation, the Board of Appeals is prevented from granting Special Exceptions for beauty culture in residential zones as home occupations.

The following are alternatives to resolving this conflict:

1. Change Section 4-103(a) to indicate where a contradiction exists between State Law and City Zoning and Planning Ordinance, State Law and standards shall supercede.
2. Delete from the Table of Permitted Uses beauty culture in residential zones as home occupation permitted by Special Exception.
3. Change the definition of home occupation to require in case of beauty culture separate entrances, restroom, and lavatory facilities in accordance with State Regulations.

Staff would recommend alternative three (3) above. Rather than change the Ordinance to accept without question State standards, the matter of contradicting laws could be handled on a case-by-case basis.

The Council discussed opposing cons of an amendment since the effect at this time is to prohibit beauty culture as a home occupation. After discussion, Councilwoman Fordham moved, duly seconded, that a text amendment be prepared deleting from the table of permitted uses beauty cultures in residential zones as a home occupation permitted by special exception. The motion passed, Councilmembers Fordham, Freeland, and Abrams voting aye and Mayor Hanna and Councilman Tyner voting nay.

Re: Instructions to staff re T-32-80
amending the zoning ordinance to
change the development standards
for hotels in the C-2 zone.

The subject text amendment would change the Tables of Uses for Commercial, Office, and Industrial zones (Section 3-201) so that a hotel in the C-2 zone will become a permitted use "subject to special restrictions." The applicable special restrictions will be added to the Zone Development Standards by creating a new section (Section 3-310) for this purpose. The special restrictions to be imposed require that hotels in the C-2 zone shall:

- a. Occupy a lot of no less than six acres;
- b. Have frontage on a major highway or arterial road; and,
- c. Be located no further than 1500 feet from a Metrorail station

On motion of Councilman Abrams, duly seconded and unanimously passed, the City Attorney's office was instructed to prepare the necessary ordinance to approve subject text amendment, T-32-80.

Re: Correspondence

The Council noted the following items of correspondence:

1. M. Gordon, West End Civic Association, re Candidate's Forum
Councilman Tyner asked if the Council will be attending. Council agreed they would do nothing as a body for a partisan session.
2. Johnny Edward Schwartz, re mixup at the M.V.A.
3. Bureau of the Census, re population
4. Members of the Legislature, response to Mayor's letter on triennial assessment
5. Mr. and Mrs. Calantonio, re neighborhood problem
6. Mr. and Mrs. Sullivan, re grading problem

7. N. Gettings, re rental inspection problem

Mayor Hanna said this is a most difficult situation. There is no indication of outstanding violations or longstanding problems. He would like to see the staff take some action. Mr. Hobbs said it would be handled.

8. W. A. Ormsby, et al, re neighborhood problem

9. Mr. and Mrs. Chvotkin, re inspection problem

Councilwoman Fordham suggested an allowance be made to homeowners when a problem is caused by lack of inspection. Mayor Hanna noted that he has asked the staff for a report and he asked that the Council take no action until this is done. He did ask that the staff call Mr. Chvotkin to explain that this is being worked on.

Re: Information Items

1. Copy of letter from Rockcrest resident re storm water management
2. Memo from Director of Public Works (9/11/80) re Ritchie Parkway landscaping
3. Recreation Flyers
4. Lincoln Park Community newsletter
5. Responses to citizen complaints
6. Memo from Superintendent of License and Inspection (9/8/80) re Municipal
Infraction tickets and court decisions
7. Letter to Roxboro residents and proeprty owners re storm water management
8. Complimentary letter
9. Memo from Public Works Director (9/8/80), re Contractor Incentives for
Gude Drive
10. Memo re newspaper recycling for apartment buildings
11. Memo re Public Hearing on Bloomington Dam
12. Memo from Director of Finance (9/11/80) on Buy Rockville program
Councilman Abrams suggested that an alternative approach be taken.
The Council did not agree that any more work should be done on this.
13. Liquor license applications
14. Copy of letter to City Manager re use permitt for shooting gallery
15. Copy of citizen's correspondence to developer
16. Project Status report from Planning Director (9/12/80)
Councilman Tyner congratulated Mr. Davis on the size of his report.
He suggested in the future when projects are finished they not be
included or listed.

Re: New Business

1. Councilman Freeland suggested a letter be included in the newsletter on the governor's message on cutbacks. Mayor Hanna cautioned it might be premature and the City should wait until the next statement is made.

2. Mayor Hanna proposed publicity from the City for the wide range of commercial/ industrial establishments located in the Southlawn area of the City. He asked the Public Information Officer to develop some ideas for promotional brochure material to return to the Council. Councilwoman Fordham expressed some concern but said she would be willing to listen to the Public Information Officer's proposal.

Re: Executive Session

There being no further business to come before the Council in general session the meeting was closed for executive session to discuss litigation and property disposition.

Re: Adjournment

There being no further business to come before the Council in executive session, the meeting was adjourned at 11:55 p.m. to convene again in general session on Monday, October 6, 1980, at 8:00 p.m. or at the call of the Mayor.